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14 CIT BANK, N.A.

15 **UNITED STATES DISTRICT COURT**
16 **STATE OF NEVADA**

17 STEVEN G. PINCHUK,

18 Plaintiff,

19 vs.

20 CIT BANK, N.A.; and EQUIFAX, INC.,

21 Defendants.

Case No: 2:16-cv-02986-RFB-GWF

Hon. Richard F. Boulware

**MOTION TO CONTINUE TIME
TO FILE THE PROPOSED
PRETRIAL CONFERENCE
ORDER (Second Request)**

22 Defendant CIT Bank, N.A. ("CIT"), through its attorney Brian C.
23 Vanderhoof, Esq. with the law firm of LeClairRyan, hereby requests, under Local
24 Rule IA 6-1 and Judge Boulware's Court Rules, that the Court extend the time for
25 the parties to file their Proposed Pretrial Order by an additional 28 days. This is the
26 second request.

1 On September 20, 2018, the Court heard and decided CIT's Motion for
2 Summary Judgment. After granting the motion in part and following the lengthy
3 hearing, the Court Ordered the parties to file their proposed pretrial order within 30
4 days. On October 18, 2018, CIT made its first timely request for a brief extension
5 of that deadline because it had then not heard from the plaintiff, Steven Pinchuk
6 ("Plaintiff"). The court granted the request and set November 12, 2018 as the
7 deadline to file the proposed pretrial conference order.

8 At 3:31 p.m. on Friday, November 2, 2018, Plaintiff emailed a draft joint
9 pretrial order to CIT. The draft joint pretrial order appeared to have been hastily put
10 together insofar as it identified more than 1,200 pages of trial exhibits for what was
11 anticipated to be a one to two day trial. The transmittal email also explained, in
12 essence, that that Plaintiff's counsel, a small firm, had lost some of its staff and
13 associate help this past month creating difficulties. (See Exhibit A.) As of this
14 writing, counsel have been unable to conduct the mandatory Rule 16-3 conference
15 to discuss settlement or the fact and exhibit stipulations. It appears unlikely that
16 this meeting will occur in time to meet the current filing deadline given that
17 Defense counsel has not been able to connect with Plaintiff's counsel save for the
18 attached transmittal.

19 Good cause exists for the relief requested herein as this request is not made
20 for purpose of delay or any other improper purpose. Among other reasons, good
21 cause exists because the proposed pretrial order is currently due on November 12,
22 2018 and, while Plaintiff has recently delivered a first rough draft of the proposed
23 joint pretrial order, there is insufficient time for CIT to meaningfully weigh in on
24 the papers following the required meeting of counsel. Moreover, it appears that the
25 Local Rule 16-3 meetings are not likely to occur in the next two business days
26 leaving CIT with no opportunity to meaningfully discuss the issues or settlement.
27 Moreover, even if the parties were able to commence the Local Rule 16-3 meetings
28 this week there will be insufficient time to allow CIT representatives to

1 meaningfully offer input into the required filing. Such a result would be unduly
2 prejudicial to CIT because the document will shape the direction of the trial.
3 Furthermore, because the trial date has not been set there will be no prejudice to
4 any party by this brief request to continue the filing deadline. Indeed, a well
5 prepared proposed pretrial order will help the parties streamline the trial which will
6 benefit not only the parties, but more importantly the Court and the jurors.

7 Plaintiff's counsel has not responded to either the telephonic or email request
8 to stipulate to the relief requested by this motion. As a result, it is unclear whether
9 Plaintiff opposes the requested relief. At a minimum, Plaintiff has not articulated
10 any basis by which she may be prejudiced from the proposed continuance and, in
11 fact, will likely benefit from a continuance given that Plaintiff does not appear to be
12 in a position to timely file the proposed pretrial order that is due in three court days.

13 For the foregoing reasons, CIT respectfully requests that the Court grant the
14 present motion and enter an order continuing the time to file the proposed pretrial
15 order from November 12, 2018 to December 12, 2018.

16 DATED: November 8, 2018 LECLAIRRYAN, LLP

17 By: /s/ Brian C. Vanderhoof
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23 **ORDER**

24 IT IS HEREBY ORDERED THAT the parties shall file their joint proposed
25 pretrial order on or before December 12, 2018.

26 IT IS SO ORDERED:



27 RICHARD F. BOULWARE, II.
28 United States District Judge

Dated: November 9, 2018

EXHIBIT A

Anchante, Graciela

From: Vernon Nelson <vnelson@nelsonlawfirm.lv.com>
Sent: Friday, November 02, 2018 3:31 PM
To: Vanderhoof, Brian C.
Subject: RE: Pinchuk v. CIT
Attachments: Pinchuk Pretrial Order Draft JG.DOC

Importance: High

Hi Brian- Hope you are well. I am very sorry for the delay. We have been short-handed and at the beginning of the month an Associate and our best secretary were recruited away by one of the big firms in town...so I have had to cover a lot on my own. Not a lot of sleep either.

Thankfully, I recently hired 2 Associates and they are helping me catch up. One of the Associates help put together the draft attached. I have not had a chance to review...so I may have some changes...but it is definitely good enough to get to you so you can do your part.

Let me know if you have any questions.

Thanks

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From: Vanderhoof, Brian C. <Brian.Vanderhoof@leclairryan.com>
Sent: Wednesday, October 17, 2018 4:38 PM
To: Vernon Nelson <vnelson@nelsonlawfirm.lv.com>
Subject: Pinchuk v. CIT

Vernon,

I left a message at your office just now. We have a joint pretrial report due fairly soon and I have not received your proposed draft. Rather than scramble to put it together at the last minute, let me know whether you will stipulate to a two week extension to file. This will also give us a chance to determine whether this matter is suitable for settlement or whether we will actually need to try the case.

Thanks,
Brian

Brian C. Vanderhoof
Attorney at Law

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